



COMESA Competition Commission

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Common Market for Eastern
and Southern Africa

22 February 2023

CCC-Notice-3-of-2023

**PRACTICE NOTE REGARDING ENGAGEMENTS WITH THE COMESA
COMPETITION COMMISSION, RELEVANT AUTHORITY IN MEMBER STATES AND
MERGING PARTIES WITH REGARD TO NOTIFIED MERGERS**

Article 23 of the COMESA Competition Regulations 2004 (the “**Regulations**”) require the mandatory notification of notifiable mergers to the COMESA Competition Commission (the “**Commission**”). A notifiable merger is one where both the acquiring firm or the target firm or either the acquiring firm or the target firm operate in two or more Member States and the thresholds prescribed under Article 23(3)(b) of the Regulations are met. Such transactions are notified and assessed by the Commission under the **one-stop-shop** principle which requires mergers meeting the regional dimension criteria to be notified to the Commission only, and that it is examined and decision on the compatibility of the merger with the Regulations be made by the Commission only.

Upon receipt of a merger notification and before embarking on an inquiry to assess the competitive effects of the same, the Commission is required under Article 26(6) of the Regulations to give notice of the transaction to all affected Member States. Notification is made by the Commission to the National Competition Authority or the Relevant Authority to which the responsibility for the subject of competition matters is assigned in the affected Member State (“**Relevant Authority**”).

Article 7 of the Regulations mandates the Commission to facilitate the exchange of relevant information and expertise with Member States. Pursuant to Article 7 of the Regulations, upon notification to an affected Member State, the Commission has a working arrangement with the Relevant Authority which mandates the latter to collect any information (verbal or recorded in written, electronic or any other form), on behalf of the Commission, from any party, including the merging parties’ subsidiaries, branches, affiliates, related parties or other entities directly or indirectly controlled by them operating in its territory.

In the spirit of the **one-stop-shop** principle, information gathered by the Relevant Authority is however not intended for the latter's decision on the notified transaction with regard to its compatibility with the Regulations. Information gathered by the Relevant Authority is meant to feed into the examination of the notified transaction by the Commission under the Regulations.

The Commission therefore wishes to advise all stakeholders to cooperate with the Relevant Authority where the latter seeks information from the merging parties' subsidiaries, branches, affiliates, related parties or other entities directly or indirectly controlled by them operating within its territory. The foregoing notwithstanding, it is important that the Commission is copied in the correspondence between the Relevant Authority and the undertakings concerned to avoid duplication of activities. This will assist in the efficient and effective examination and disposal of notified transactions before the Commission.

For any further details and/or clarifications on any aspect of this Practice Note, please contact the undersigned on +265 (0) 1 772 466 or by email at compcom@comesa.int.

This Practice Note is effective from the date of publication on the Commission's website. The Commission may withdraw or update this Practice Note but in no case shall it do so without notifying stakeholders of the withdrawal or revision.



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Registrar
COMESA Competition Commission